

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 391

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO JUVENILES; PROVIDING FOR REIMBURSEMENT TO COUNTIES FOR A CHILD ORDERED TO BE PLACED IN A COUNTY JUVENILE DETENTION FACILITY WHILE ON PROBATION OR PAROLE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 32A-2-12 NMSA 1978 (being Laws 1993, Chapter 77, Section 41, as amended) is amended to read:

"32A-2-12. PLACEMENT OR DETENTION.--

A. A child alleged to be a delinquent child may be placed or detained, pending a court hearing, in any of the following places:

(1) a licensed foster home or a home otherwise authorized under the law to provide foster or group care;

(2) a facility operated by a licensed child welfare services agency;

underscoring material = new
[bracketed material] = delete

1 (3) a shelter-care facility provided for in
2 the Children's Shelter Care Act or a detention facility
3 certified by the department for children alleged to be
4 delinquent children;

5 (4) any other suitable place, other than a
6 facility for the long-term care and rehabilitation of
7 delinquent children to which children adjudicated as delinquent
8 may be confined pursuant to Section 32A-2-19 NMSA 1978,
9 designated by the court and which meets the standards for
10 detention facilities pursuant to the Children's Code and
11 federal law; or

12 (5) the child's home or place of residence,
13 under conditions and restrictions approved by the court.

14 B. A child alleged to be a youthful offender may be
15 detained, pending a court hearing, in any of the following
16 places:

17 (1) a detention facility, licensed by the
18 department, for children alleged to be delinquent children; or

19 (2) any other suitable place, other than a
20 facility for the long-term care and rehabilitation of
21 delinquent children to which children adjudicated as delinquent
22 children may be confined pursuant to Section 32A-2-19 NMSA
23 1978, designated by the court and that meets the standards for
24 detention facilities pursuant to the Children's Code and
25 federal law.

.150212.1

underscored material = new
[bracketed material] = delete

1 C. A child adjudicated as a youthful offender who
2 is violent toward staff or other residents in a detention
3 facility may be transferred and detained, pending a court
4 hearing, in a county jail. In the event that a child is
5 detained in a jail, the director of the jail shall presume that
6 the child is vulnerable to victimization by inmates within the
7 adult population because of his age, and shall take measures to
8 provide protection to the child. However, provision of
9 protective measures shall not result in diminishing a child's
10 civil rights to less than those existing for an incarcerated
11 adult.

12 D. A child who has previously been incarcerated as
13 an adult or a person older than eighteen years of age shall not
14 be detained in a juvenile detention facility or a facility for
15 the long-term care and rehabilitation of delinquent children,
16 but may be detained in a county jail. In the event that a
17 child is detained in a jail, the director of the jail shall
18 presume that the child is vulnerable to victimization by
19 inmates within the adult population because of his age, and
20 shall take measures to provide protection to the child.
21 However, provision of protective measures shall not result in
22 diminishing a child's civil rights to less than those existing
23 for an incarcerated adult.

24 E. A child alleged to be a serious youthful
25 offender may be detained pending a court hearing in any of the

.150212.1

underscored material = new
[bracketed material] = delete

1 following places, prior to arraignment in metropolitan,
2 magistrate or district court:

3 (1) a detention facility, licensed by the
4 department, for children alleged to be delinquent children;

5 (2) any other suitable place, other than a
6 facility for the long-term care and rehabilitation of
7 delinquent children to which children adjudicated as delinquent
8 children may be confined pursuant to Section 32A-2-19 NMSA
9 1978, designated by the court which meets the standards for
10 detention facilities pursuant to the Children's Code and
11 federal law; or

12 (3) a county jail, if a facility in Paragraph
13 (1) or (2) of this subsection is not appropriate. In the event
14 that a child is detained in a jail, the director of the jail
15 shall presume that the child is vulnerable to victimization by
16 inmates within the adult population because of his age and
17 shall take measures to provide protection to the child.

18 However, provision of protective measures shall not result in
19 diminishing a child's civil rights to less than those existing
20 for an incarcerated adult.

21 F. The state shall reimburse counties for the daily
22 cost of care, as established by the county, for a child that is
23 placed on probation or parole and ordered placed in the county
24 juvenile detention facility."